

ENVIRONMENTAL PROTECTION COMMISSION  
REGULAR MEETING/PUBLIC HEARING  
MINUTES

August 6, 2008

7:30 P.M.

Room 206, Town Hall

Chairman Hillman called the meeting to order at 7:35 P.M. Commission Members Present: Peter Hillman, Susan Cameron, Ellen Kirby, Rick Rohr, Michael Tone.

Staff Present: Richard Jacobson

Court Reporter: Bonnie Syat

Mr. Hillman read the first agenda item:

Discussion and possible adoption of: "ENVIRONMENTAL PROTECTION COMMISSION  
FLOOD AND EROSION REGULATIONS"

The Commission discussed the final draft regulations.

Ms. Cameron said the Commission did a good job of listening to the public. The public may not agree with the language regarding taxing districts but the language must be left in.

Mr. Hillman said the addition of the RTM review will provide a safeguard.

Mr. Hillman thanked the Commission for participating beyond the job they signed up for. He said that personally he can envision that the time may come when the Town might consider spinning off the F&ECB into separate board. He said the regulations are not a panacea or cure all. The EPC is limited in its authority based on state statutes. The assessment power is already in the statutes.

Mr. Hillman made a motion to approve the draft regulations. Ms. Cameron seconded the motion and it passed 4-0. (Mr. Tone abstained).

Mr. Hillman read the next agenda item:

EPC-10-2008, Gloria Gouveia, 25 Brookside Road, proposing a revision to an approved two lot subdivision plan to construct one new house within the upland review area. The site is shown on Assessor's Map #16 as Lot #66.

The Commission reviewed the draft resolution. Mr. Hillman said the full EPC was prepared to vote 4-3 to deny the application and noted the absence tonight of Commissioners Flaherty and Kenyon, who both seek a denial. He said he would switch his vote from approval to denial to carry out the clearly expressed will of the full Commission.

Ms. Cameron made a motion to deny the application. Mr. Rohr seconded the motion and it passed 3-2. (Mr. Tone and Ms. Kirby were opposed.)

Mr. Hillman read the next agenda item:

ENVIRONMENTAL PROTECTION COMMISSION  
REGULAR MEETING/PUBLIC HEARING  
MINUTES  
August 6, 2008  
PAGE 2

EPC-21-2008, James Hines, 10 Libby Lane, proposing house demolition and construction of a new house within an upland review area. The site is shown on Assessor's Map #9 as Lot #53.

Mr. Hillman said the application has come a long way. The Commission reviewed the draft resolution and made modifications.

Mr. Rohr made a motion to approve the application. Mr. Hillman seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda items:

EPC-18-2008, Mitchell and Kerry Ross, 10 Nickerson Lane (Lot 10), proposing house demolition, and re-grading within 100 feet of Holly Pond. The site is shown on Assessor's Map #52 as Lot #9.

EPC-19-2008, Mitchell and Kerry Ross, 10 Nickerson Lane (Lot 11), proposing house demolition, and new house construction within 100 feet of Holly Pond. The site is shown on Assessor's Map #52 as Lot #8.

The Commission reviewed the draft resolution and made additions.

Mr. Rohr made a motion to approve the resolution to approve as amended. Mr. Hillman seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item:

EPC-39-2008, Lance E. Zimmerman, on behalf of Robert and Victoria Patton 27 Royle Road, proposing house additions within an upland review area. The site is shown on Assessor's Map #6 as Lots #48 & 49.

Mr. Rohr was recused for this application.

Lance Zimmerman represented the applicant. He said they are proposing a master bedroom suite. The majority of the property is within the upland review area. He said two rain gardens are proposed. They are proposing to convert a portion of the lawn in the wetland back to natural wetland – approximately 1,500 sq. ft. He said they would provide 715 cubic feet of storage in the two rain gardens and they are removing a small shed in the upland review area. They are removing 2,400 sq. ft. of driveway and returning it to pervious surface.

Mr. Hillman said it was a sensible application. He said he liked the restoration of lawn to wetland, the rain gardens, and the driveway removal.

Ms. Cameron asked the closest point of the construction to the wetland. Mr. Zimmerman said 10 feet. Ms. Cameron asked if the house flooded from Cummings Brook. Mr. Zimmerman said once, in the crawlspace. Ms. Cameron asked about the current runoff discharge. Mr. Zimmerman said the runoff is to a catch basin and the lawn. He said the new addition will be directed to the raingarden.

ENVIRONMENTAL PROTECTION COMMISSION  
REGULAR MEETING/PUBLIC HEARING  
MINUTES  
August 6, 2008  
PAGE 3

Ms. Kirby asked if the existing trees shown on the plan will remain. Mr. Zimmerman said yes.

Ms. Cameron made a motion to approve the application. Mr. Hillman seconded the motion and it passed 6-0.

Mr. Hillman read the next agenda item:

EPC-48-2008, Hallie and James Palen, 45 Brookside Road, proposing grading, terrace, and walls within an upland review area. The site is shown on Assessor's Map #15 as Lot #17.

Matt Popp and Mrs. Palen represented the applicant.

Mr. Hillman said the application warranted a public hearing because of potential significant impact.

The Commission requested additional information, including a better topographic survey and the conservation easement language.

Ms. Cameron asked about trees to be removed. Mr. Popp said one birch tree. Ms. Cameron asked them to mark the tree to be removed.

Mr. Hillman asked for a more detailed narrative.

Mr. Rohr asked about the language for re-planting the meadow area being optional. Mr. Popp said the area is weedy now and they would like assess the cost factor before deciding. Ms. Cameron asked them to check the status of the plantings in the easement area.

The Commission scheduled the public hearing for September 3.

Mr. Hillman read the next agenda item:

EPC-43-2008, Wilder G. Gleason, Esq. on behalf of Whole Foods Market, 150 Ledge Road, proposing to construct a fence and plant trees within upland review area. The site is shown on Assessor's Map #39 as Lot #23-24

Attorney Wilder Gleason represented the applicant. He said the proposed trees and fence were at the request of the neighbors as part of the court settlement. He said the settlement is not contingent upon EPC approval. He said they are proposing 140 linear feet of fence and 8 trees in the upland review area. He said there would be no impact from the fence post holes that would warrant a silt fence.

Mr. Hillman asked about the fence material. Mr. Gleason said it would be either Trex or wood.

Ms. Cameron asked about the need to remove trees. Mr. Gleason said tree removal is not anticipated. Ms. Cameron said she would like to walk the area with staff prior to planting.

Mr. Hillman made a motion to approve the application with the added stipulation of a survey of existing trees. Mr. Tone seconded the application and it passed unanimously.

ENVIRONMENTAL PROTECTION COMMISSION  
REGULAR MEETING/PUBLIC HEARING  
MINUTES  
August 6, 2008  
PAGE 4

Mr. Hillman read the next agenda item:

EPC-44-2008, The Cottage in Darien, Inc., 30A Edgerton Street, proposing to remove pavement and plant meadow to restore an upland review area. The site is shown on Assessor's map #22 as lot #83.

Doug Milne represented the applicant. He said they are leasing the area of the parking lot and would like to remove pavement on Town land.

Mr. Hillman made a motion to approve the application. Mr. Tone seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item:

EPC-45-2008, Robert K. and Marikay Herdman, 28 Royle Road, proposing a house addition in an upland review area. The site is shown on Assessor's Map #6 as Lot #50.

Mrs. Herdman represented herself. She said they are proposing a small addition and a rain garden for the small increase in runoff.

Ms. Cameron made a motion to approve the application with a stipulation to provide a planting plan. Mr. Tone seconded the motion and it passed unanimously. Mr. Hillman read the next agenda item:

EPC-46-2008, Town of Darien, LaForge Road and Dubois Street, proposing drainage improvements in an upland review area within Town roads.

Darren Oustafine, P.E., Assistant Director of Public Works, represented the applicant. He said they developed a solution to the flooding that contains the work in Town streets.

Mr. Hillman said the Flood Mitigation Committee has been working to push the LaForge Road project.

Mr. Rohr asked about note C3.1 regarding the time frame of the project. Fred Mascia, P.E., Tighe and Bond said they are concerned about areas in the backyards that will not be able to be seeded and mulched. He said those areas will have E&S controls in place until they can provide permanent stabilization in the spring.

Laura Giobbi asked if the residents on Casement Street were notified. Mr. Mascia said all of the water eventually gets to the same place. He said they are preventing water from flooding LaForge while not creating any new water.

Ms. Cameron asked if they were changing the peak flows. Mr. Maschia said the peak is slightly higher but the timing is different. There is no change in volume.

Mrs. Giobbi asked if they had plans to widen the stream behind Casement. Mr. Mascia said no.

ENVIRONMENTAL PROTECTION COMMISSION  
REGULAR MEETING/PUBLIC HEARING  
MINUTES  
August 6, 2008  
PAGE 5

Flora Smith asked if this project is south of the Baker Field detention proposal. Mr. Mascia said yes. Ms. Smith said this project was originally proposed in a different form. She said there should be notice to residents downstream.

Cheryl Russell said the public should be notified. She said she is concerned with flow from any future Baker field project. Mr. Oustafine said the Baker Field project will improve flooding downstream and this project involves separate peak flows.

Flora Smith said she believed the EPC should hold a public hearing.

Mr. Hillman said that based on public comments and concerns, a public hearing would be in the public interest. The hearing was scheduled for August 26.

Mr. Hillman read the next agenda item:

EPC-47-2008, David Martens, 11 Bittersweet Lane, proposing a house addition within an upland review area. The site is shown on Assessor's Map #27 as Lot #27.

No one was present for this application.

Mr. Hillman read the next agenda item:

EPC-49-2008, Kathleen M. Dunphy, 10 Hamilton Lane, proposing a house addition within an upland review area. The site is shown on Assessor's Map #10 as Lot #21.

Mrs. Dunphy represented herself. She said she they are proposing a small addition over a flagstone patio.

Flora Smith said there is continued flooding on the street. She is concerned with topsoil and fill being placed on the applicant's property.

Mr. Hillman said Mrs. Dunphy has always followed the Commission's procedures with her applications. He made a motion to approve the application. Mr. Tone seconded the application and it passed unanimously.

Mr. Hillman read the next agenda item:

EPC-50-2008, Jenny and Mike Doyle, 95 Mansfield Avenue, proposing to replace a retaining wall within an upland review area. The site is shown on Assessor's Map #17 as Lot #28.

Michael Sibilio, Contractor represented the applicant.

Mr. Rohr said he would like to have a plan stamped and sealed by an engineer.

Mr. Hillman said the Commission would like to give the homeowner the right to repair the wall but an engineer's plan would be necessary. Mr. Sibilio said they would provide a plan as soon as possible.

ENVIRONMENTAL PROTECTION COMMISSION  
REGULAR MEETING/PUBLIC HEARING  
MINUTES  
August 6, 2008  
PAGE 6

Mr. Hillman read the first public hearing item:

EPC-36-2008, Robert and Justine Stewart, 24 Cross Road, proposing house demolition and new house construction within an upland review area. The site is shown on Assessor's Map #69 as Lot #11.

The public hearing was opened and continued to September 3.

Mr. Hillman read the next public hearing item:

EPC-31-2008, Katherine Michele, 19 Stephanie Lane, proposing demolition of existing residence, construction of new dwelling and pool, and related site development within an upland review area. The site is shown on Assessor's Map #8 as Lot #67. (continued from July 9)

The public hearing was continued to September 3.

Mr. Hillman read the next public hearing item:

EPC-32-2008, Ellen McCue, 17 Top'O Hill Road, requesting after the fact approval to complete filling and stone wall construction within an upland review area. The site is shown on Assessor's Map # 29 Lot #87. (opened July 9 and immediately continued).

Attorney Eric Bernheim represented the applicant.

Mr. Hillman noted for the record the letters received from Mrs. Webb and Mrs. Knag.

Greg Maroun, Geiger's Landscaping said they provided an updated survey with no encroachment into the 15 foot grading setback.

Ms. Cameron asked them to consider moving the wall back.

Mr. Bernheim said the original survey did not show any wetland. He aid the Town map wetland boundary was on the survey provided to the landscaper. He said they hired a soil scientist after the cease and desist order.

Mr. Hillman asked how close they are to the wetland. Mr. Maroun said 15 feet at the closest point. He said moving the wall back would create additional disturbance. He said it would not solve the problem cited by Mrs. Knag. He said they are providing detention above what was originally approved.

Mr. Tone asked the height of the wall. Mr. Maroun said 6 feet. Mr. Tone asked how much additional fill is required. Mr. Maroun said approx. 150 cu. yds. Mr. Tone asked if they were offering any additional mitigation. Mr. Maroun said a planting plan.  
Mr. Hillman opened the hearing for public comment.

ENVIRONMENTAL PROTECTION COMMISSION  
REGULAR MEETING/PUBLIC HEARING  
MINUTES  
August 6, 2008  
PAGE 7

David Dever, Top O'Hill Road, said he had concerns with the method of construction. He said the plan shows no flow into their property where there already is flow eroding their trees.

Ms. Cameron said she would like to see alternatives with the fill closer to the house.

The Commission continued the hearing to September 3.

Mr. Hillman read the next public hearing item:

EPC-40-2008, Glazer Construction, 135 Five Mile River Road, proposing house demolition and new house construction within an upland review area. The site is shown on Assessor's Map #67 as Lot #4.

Andy Glazer represented himself. He said they are proposing to tear down and replace the existing house. There are existing stone walls that will remain. He said the house is on septic now and the new house will connect to the sewer. He said they are converting a flagstone area to grass.

Tom Ryder, Land Tech Consultants, said the existing terraces help to provide E&S control. He said the new house connecting to infiltrators will improve stormwater quality.

Mr. Hillman asked why there is lawn below the terrace and not plantings. Mr. Ryder said there is very little lawn area on the site. He said they are not averse to adding plantings down below.

Mr. Hillman said there will be a significant reduction in impervious area next to the river. He would like to see some plantings in that area.

Ms. Cameron asked if they were planting trees. Mr. Ryder said not large trees. He said there will be significant landscaping outside the upland review area.

Mr. Hillman asked if he thought, in his opinion there would be a significant adverse impact on the regulated area. Mr. Ryder said none.

Mr. Rohr said the note about the patio to remain is incorrect. He requested the E&S control notes be changed to eliminate the use of calcium chloride. He asked that the word "intent" be removed from the statement regarding protecting and enhancing existing plantings and substitute a plan to be reviewed by staff.

There were no members of the public who wished to speak.

Mr. Rohr made a motion to close the public hearing. Mr. Tone seconded the motion and it passed unanimously.

The Commission proceeded to deliberate.

Mr. Hillman said the proposal would not be a detriment to the Five Mile River. He said he would like a condition requiring the use of organic chemicals. He said a maintenance plan for the pool and

ENVIRONMENTAL PROTECTION COMMISSION  
REGULAR MEETING/PUBLIC HEARING  
MINUTES  
August 6, 2008  
PAGE 8

drainage should be conditions. A. planting plan to be approved by staff and incorporating the comments by Mr. Rohr.

Mr. Tone said the approval should reflect the net reduction in impervious surface.

Ms. Cameron requested adding a recommendation to leave the oak trees outside the upland review area.

The Commission requested staff draft a resolution to approve the application.

Ms. Hillman made a motion to approve the minutes of April 2. Ms. Cameron seconded the motion and it passed 4-0. (Mr. Tone abstained).

Ms. Cameron made a motion to adjourn. Mr. Rohr seconded the motion and it passed unanimously. The meeting adjourned at 11:00. P.M.

Respectfully submitted,

Richard B. Jacobson  
Environmental Protection Officer